THE PETITIONS OF Mr. BOLLAN,

AGENT FOR THE

COUNCIL OF THE PROVINCE of MASSACHUSETTS BAY,

LATELY PRESENTED TO THE

TWO HOUSES OF PARLIAMENT;

WITH A

BRIEF INTRODUCTION

RELATING TO THE

LAW of NATURE, the AUTHORITY of HUMAN RULERS, and the SUBJECTS COMMON RIGHT of DEFENCE;

WITH

SUBSEQUENT OBSERVATIONS,

RESPECTING THE

Nature of the PRINCIPALITIES eſtabliſhed in EUROPE by the NORTHERN CONQUERORS, and of the ENGLISH CONSTITUTION;

TO WHICH IS SUBJOINED THE

COUNCILS DEFENCE againſt the Charge of certain MISDEMEANOURS.

Men pay too dear for their want of Providence, and find too late that the neglect of juſtice infallibly, though undiſcerned, undermines that ſecurity which their policy would raiſe in the place of what wiſdom and juſtice had provided for them.

Lord CLARENDONS Survey of the Leviathan.

LONDON

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MDCC LXXIV.

The PETITIONS of Mr. BOLLAN, Agent for the Council of the Province of MASSACHUSETTS BAY, &c.

THE intellectual ſyſtem of the univerſe is not ſubject to the power of man, " whoſe will cannot change nature;" on the contrary " every thing being what it is by nature, and not by will," the moſt powerful princes, with the aid of all their councils and their forces, cannot juſtify that which is in its nature unjuſt, any more than they can reverſe the motions of the earth they inhabit; for univerſal juſtice, which is conſonant to the eternal reaſon of things, and to the univerſal benefit of mankind, is eſtabliſhed by the law of nature, that is, by the immutable law of God; and therefore every law of man made contrary to natural juſtice is void, and all the actions of ſubordinate rulers repugnant to it offences againſt the author of nature, the ſole ſupreme legiſlator and ſovereign of the univerſe: and " natural laws " being eſſentially juſt, and the natural object of reaſon, we can no " more ſay we are ignorant of them than that we want the light of " reaſon which informeth us of them; and altho' poſitive laws have " not their force till promulged, natural laws have always theirs " without promulgation; and as they can neither be changed nor " aboliſhed, and have their authority in themſelves, they always bind " men, who cannot pretend ignorance of them"——*Id quod ſemper æquum & bonum eſt* JUS *dicitur, ut eſt* JUS NATURALE——" JUSTICE is " a conſtant and perpetual will or diſpoſition of giving unto every one " that which is his right or due;" and " without juſtice there is no " kingdom," whatever the external appearances may be.

Truth and juſtice are in civil ſociety the natural, perpetual, and common ſafeguard of the ſubjects, wherein they repoſe their confidence; and all human rights being the objects of juſtice, when any of their rights are brought in queſtion, to them they have recourſe for their preſervation; and it being impoſſible for their judges to do what is juſt without firſt having before them what is true, and truth being ever attended with a happy coincidence of all its parts, the knowledge of what is juſt ariſeth from the proper information received, and conſideration

had of the whole matter; and therefore in order to that diſpenſation of juſtice which attributes to every one his due, the indiſpenſible common right of free defence doth by natural law and neceſſity take place, without the benefit whereof it is preſumed utterly impoſſible for the ſcales of juſtice to be equally held; and the right of defence, whereby their other rights are to be protected, being by natural order, for their ſakes, firſt to be admited, the excluſion of it is conceived to be apparently incompatible with their preſervation. *Omnes populi qui legibus & moribus reguntur partim ſuo proprio, partim communi omnium hominum jure utuntur. Quod naturalis ratio inter omnes homines conſtituit, id apud omnes peræque cuſtoditur*; and the right of defence, the uſe whereof ſelf preſervation requires, being a common right eſtabliſhed by natural reaſon, hath been admited by all nations governed by the principles of juſtice and equity——From various imperial *Roman* laws it appears that defenders were appointed, 1, of the common-wealth; and it is remarkable that they ſuſtained neither honours nor offices, as we learn from the received ſentences of *Julius Paulus*, an eminent lawyer in the time of *Severus*, and from the *Pandects* and *Code* of *Juſtinian*. The words of *Paulus* are, *Defenſores reipublicæ ab honoribus & muneribus eodem tempore vacant*. 2, of the ſenate. 3, of the people. 4, of cities. 5, of municipes, or any corporation*. 6, of the palace. 7, of churches. 8, of villages. 9, of abſent perſons.

With reſpect to the *Roman* colonies; in the time of the common-wealth the coloniſts, whether they had the right of *Roman* citizens, or the *Latin* or *Italic* right, appointed their deputies to appear for them, defend their rights, and negociate their affairs depending before the government at *Rome*; and of their uſe of this mode of defence and negotiation under the imperial government there is a notable monument remaining at *Trieſte*, in *Iſtria*†, the ſeat of an ancient *Roman* colony, to wit, "a decree of the *duumviri*," that is, officers who, according to the conſtitution of the colonies, formed upon the model of the *Roman* ſtate, ſupplied the place of the two *conſuls*; wherein, among many things ſet forth at large in honour of *Fabius Severus*, it is declared that he had defended their public cauſes "before the *Cæſarian* judges, and "alſo before the emperour himſelf;" wherein, "by the JUSTICE of the

* *Lampridius* ſaith that *Alex. Severus* conſtituted bodies [politic] of all artificers, and gave to them defenders, to be taken out of their reſpective bodies.

† Situate in the north-weſt part of *Italy*.

"divine

" divine prince, and his own excellent and moſt prudent orations, he " had obtained ſucceſs;" and that he had ſo happily proſecuted the public deſire, as the ſentences and letters of *Antoninus Auguſtus Pius* manifeſted, as to prevail that the *Carni* and *Catari* ſhould partake of the honour and privilege of their common-wealth; wherefore they decreed a gilt *equeſtrian* ſtatue to be erected to his honour in the moſt public part of the city, with their decree inſcribed upon the baſe.—— This decree is now found in the town wall, oppoſite St. *Laurence* church.

Cicero, in his oration againſt the moſt flagitious *Vatinius*, ſaith that " in the city of *Rome* oppugnancy was ſometimes wont to be cenſured, " DEFENCE never." In his oration for *P. Sextius*, when ſpeaking of the inſtitution of human ſociety, he ſaith, " the moſt intereſting " things are *right* and *force*; upon refuſing one of theſe we muſt uſe " the other. Are we willing to have *force* extinguiſhed? of neceſſity " *right* prevaileth, that is, *judgments*, in which all *right* is contained." In his firſt book of laws he ſaith that " of all things which are the " ſubjects of diſpute among learned men, truly nothing is more excel- " lent than thoroughly to underſtand that we are born for JUSTICE, " and that RIGHT is eſtabliſhed not by opinion but NATURE." And in one of his familiar epiſtles to *Papirius Pætus*, written after the uſurpation of *Julius Cæſar*, he ſaith, " I ſee nothing to fear from him who " hath all power, except that all things are uncertain when right is de- " parted from."

To the Honourable the Commons of GREAT BRITAIN in Parliament aſſembled,

The PETITION of WILLIAM BOLLAN, Eſq; Agent for the Council of the Province of MASSACHUSETTS BAY, in NEW ENGLAND,

Moſt humbly ſheweth,

THAT the *Engliſh American* colonies were deduced and planted by the adventurers and ſettlers at their expenſe, in foreign inhoſpitable lands, acquired by their vigorous efforts, made under the authority of their princes, granted with the encouragement proper for this ſpirited and noble enterprize.

THAT the ſeveral princes by whoſe authority the colonies were eſtabliſhed, and the numerous nobles and other worthy perſons, of whom

ſeveral

ſeveral were men of the greateſt accompliſhments, endued with the wiſdom proper for obtaining and preſerving empire, by whoſe advice, aid, and concurrence they were undertaken and advanced, were ſo far from underſtanding that theſe adventurers and ſettlers, who by their travel and expenſes, labours and dangers, ſhould enlarge the public dominion, ſhould thereby, contrary to natural juſtice, leſſen their public liberties, that from the many letters patent royal made and paſſed for obtaining and regulating new dominion, and the whole hiſtory of their ſettlement, it manifeſtly appears it was the intent of all parties, that the ſettlers, and their poſterity ſhould enjoy the ſame; whereupon they became adventurers; and inſpirited by their confidence herein, with their long and quiet enjoyment of their public rights, overcoming difficulties, perils, and hardſhips inexpreſſible and innumerable, they raiſed the kings *American* empire out of a dreary and dangerous wilderneſs, with ſo great and continual encreaſe of commerce, that of late years it hath given employment unto two thirds of the *Britiſh* ſhiping, with a comfortable ſupport to no ſmall part of the inhabitants of *Great Britain*, and great addition to the dignity and ſtrength of its naval empire.

THAT by the ſtatute law of this kingdom it is clearly ſuppoſed, and in effect fully declared, that the coloniſts were well entitled to the ENGLISH RIGHT, and the lands they inhabit free.

THAT the *acta regia* of queen *Elizabeth*, and her ſuceſſours, whereby the acqueſts of new dominion were made and eſtabliſhed, and ſecurity given to the adventurers, planters, and their deſcendants of the perpetual enjoyment of their public liberties, having, as your petitioner preſumes, never been laid before this honourable houſe, nor the colonies ever yet had an opportunity to aſcertain and defend their invaluable rights; and the honourable houſe, as your petitioner is adviſed, now having under their conſideration the ſtate of the northern colonies,

Your petitioner humbly prays that he may be admited to appear and lay before this honourable houſe authentic copies of the proper *acta regia*, and to ſupport the matters herein contained in a manner ſuitable to their nature, and to the inclinations of this honourable houſe.

W. BOLLAN.

On

On the 14th of March, 1774, Sir *Joseph Mawbey* preſented this petition, before the houſe proceeded to conſider the ſtate of *America*; and the admiſſion of it being oppoſed a conſiderable debate enſued, which was concluded by a majority of votes given for its allowance ſo far as to order it to lye upon the table, where, the petitioner underſtood, it was to lye ready for the merits to be paſſed upon when any future occaſion ſhould require it.

On the 18th a bill for removing the officers of the cuſtoms, and ſhuting up the port of *Boſton*, was brought into the houſe, read, and ordered to be read a ſecond time on the 21ſt, when Sir *Joſeph Mawbey* before the ſecond reading moved that the petitioner might be heard in ſupport of his petition upon the table, which being oppoſed, was refuſed, as the petitioner was inform'd, chiefly for this reaſon, that it did not relate to the bill depending; but that in the courſe of the oppoſition it was allowed there would be a time for the petitioners being heard upon a proper petition; whereupon, according to his information, a worthy member in vain deſired to have that time aſcertained—— This refuſal occaſioned the following petition to be afterwards preſented.

II. To the Honourable the Commons of GREAT BRITAIN, in Parliament aſſembled,

The PETITION of WILLIAM BOLLAN, Eſq; Agent for, and in behalf of, the Council of the Province of MASSACHUSETTS BAY; and likewiſe of himſelf, and the other Inhabitants of the Town of BOSTON,

Moſt humbly ſheweth,

THAT "the bill for the immediate removal of the officers "concern'd in the collection and management of his majeſtys "duties of cuſtoms from the town of *Boſton*, in the province of *Maſ-* "*ſachuſetts Bay*, in *North America*, and to diſcontinue the landing, "diſcharging, lading and ſhiping of goods, wares and merchandize at "the ſaid town of *Boſton*, or within the harbour thereof," at preſent depending under conſideration of this honourable houſe, contains various proviſions propoſed to be enacted, inconſiſtent with the ancient and juſt rights, meritorious ſervices, lawful poſſeſſions, reaſonable cuſ-

toms, usual comforts of life, and common social benefits, with other important interests of all the persons in whose behalf this petition is presented, long held in amicable conjunction with the other inhabitants of the province, and the most desirable connection with innumerable persons employ'd in manufactures, trade and navigation in *Great Britain*, whereby they have been well maintain'd and prospered; and moreover inconsistent with the general circulation of *American* commerce, from which so great benefits are daily received by this kingdom various ways;

Wherefore your Petitioner humbly prays that he may be heard before this honourable house, in order to prevent these provisions from passing to be enacted.

W. BOLLAN.

On the 25th of *March*, Mr. alderman *Crosby*, before the third reading of the bill, offer'd this petition to the house, and stated the particulars of its contents, adding that having seen the petitioners authority from the council he was therewith fully satisfied, and doubted not the house would be so likewise, on the petitioners producing the same; but after debate the question being put, that this petition be brought up, it passed in the negative.

III. To the Honourable the Commons of GREAT BRITAIN, in Parliament assembled,

The PETITION of WILLIAM BOLLAN, Esq; Agent for the Council of his Majestys Province of MASSACHUSETTS BAY, in NEW ENGLAND,

Most humbly sheweth,

THAT the charter of this province, which is at present composed of the ancient colonies of *Massachusetts Bay* and *New Plymouth*, and the province of *Main*, with certain lands lying to the eastward, was by their late excellent majesties king *William* and queen *Mary*, in the 3d year of their reign, granted to the inhabitants, in consequence of their signal services in point of their settlement and defence, at great expense, and under extreme difficulties and hardships, encreased by an extensive

extenſive frontier, ſubjected to the inroads, devaſtations and cruelties of the *French* and their *Indians*, their majeſtys being moreover induced to grant this charter by the *Maſſachuſetts* colony having in the year 1690, at their own expenſe, reduced *Port-royal* to their majeſties obedience, and taken poſſeſſion in their behalf of 90 leagues, or more, of the weſtern ſea-coaſt, and by the ſaid colonies having afterwards, in the ſame year, made an expedition againſt *Canada*, tho' without ſucceſs, conſiſting of between 30 and 40 ſail of ſhips, great and ſmall, and 2000 men, the great expenſe whereof being wholly unable to pay, they then made the firſt uſe of paper bills of public credit, to ſerve in common payments; which tho' a temporary partial relief, became in time a general grievance, under which the province labour'd fifty years or more.

THAT in the year 1704, to annoy the *French* ſettlements on the ſea-coaſt, this province raiſed 550 men, with 14 ſmall tranſports, and 36 whale boats, convoyed by the *Jerſey* and *Goſport* ſhips of war, with the province Snow. They ravaged ſeveral of the enemies ſmall ſettlements; but when they came before *Port-royal*, both ſea and land officers agreed no attempt ſhou'd be made to reduce it.

THAT early in the year 1707, this province raiſed 1000 men to ravage *Nova Scotia*, and, if practicable, to reduce *Port-royal*, being ſtrengthened by forces from *Rhode Iſland*, and *New Hampſhire*. They were convoyed by the *Deptford* ſhip of war, and the province galley. This force by two ſeveral expeditions, the army being reinforced in the latter by *Maſſachuſetts* troops, attempted in vain that ſummer to reduce *Port-royal*.

THAT in the year 1709, by the queens order, this province, with aſſiſtance from *Rhode Iſland*, raiſed 1200 men, and provided proper tranſports, to be employ'd with conſiderable land and ſea force to be ſent from *England* to attack *Quebec* and other *French* ſettlements: but the *Engliſh* forces being otherwiſe employed did not come that year. In the next a leſſer force came to *Boſton*, which being join'd by two regiments, raiſed, and provided with proper tranſports by the *Maſſachuſetts* province, and two other regiments raiſed by other *New England* colonies, they proceeded, under convoy of ſeveral ſhips of war, againſt *Port-royal*, and reduced it to her majeſtys obedience.

THAT in the year 1711 the queen having reſolved to proſecute a powerful expedition againſt *Canada*, on the 8th of *June* the province received

received notice of it, with orders for them and other colonies to provide their quota of men, and for the province to provide ten weeks provision for the army, amounting to near 7000 men: altho' distress'd by this short notice, they exerted their utmost zeal and vigour to comply with every requisition, and, among other measures, the general assembly being siting, an order pass'd to impress all provisions, in whose possession soever; and the fleet consisting of 15 ships of war, and 40 transports, which arrived on the 24th, the addition of so great numbers caused such a sudden scarcity of all poultry and fresh meat, that if the usual consumption of the inhabitants had continued the forces must have wanted necessary refreshment; wherefore many of the principal gentlemen in *Boston* engaged, while the fleet lay there, to eat only salt provisions in their families.

THAT in the former part of the war with *France* begun in the year 1744, *Massachusetts* province several times saved *Annapolis-royal*, by which alone *Nova Scotia* was held, when in imminent danger of falling into the enemies hands.

THAT in the year 1745, after some time despairing of success in so great an enterprize, at length exerting their utmost zeal and abilities they form'd and prosecuted, with assistance from their neighbours, the memorable expedition against *Louisburg*, declared by its commanders the brightest jewel in the crown of *France*, garrisoned by *French* and *Swiss* soldiers, and defended by above 100 cannon mounted; yet these new raised troops, after bravely making good their difficult landing against the party appointed to oppose them, with activity and patience enduring the greatest fatigues and hardships, draging by hand their cannon thro' morasses deem'd by the enemy impassable, raising battery after battery against this fortress, and continuing their labour, prudence, vigilance and valour during a siege of seven weeks, cover'd by a considerable number of ships of war, by royal order appointed for this purpose, for no convoy or assistance could be obtain'd from either of the two squadrons in *America* upon application to their commanders, they reduced the enemys forts, batteries, and the whole city into such an untenable state that the enemy surrender'd it, with all its dependances, to the kings obedience.

THAT upon your petitioners first appearance before the lords of the treasury, as agent for the province, to obtain payment of the expenses of this expedition, and taking notice how moderate they were, and

that

that the like expedition from *England* would have coſt much more, the firſt lord anſwer'd that he believ'd it wou'd have coſt three times as much, and probably not have ſucceeded.

THAT in the year 1746 *Britain* and *France* having form'd their reſpective great deſigns of enlarging their *American* dominions, and troops being appointed to be raiſed in the northern colonies, to join the *Britiſh* forces, 5000 at leaſt being expected in the whole, out of 8200 raiſed by nine of thoſe colonies 3500 were raiſed, and prepared for embarking in ſix weeks, by the *Maſſachuſetts* province, the chief intent of the whole armament by ſea and land being the reduction of *Canada*; but the *Britiſh* forces never proceeded to execute this deſign, altho' duke *d'Anville* ſail'd with the *Breſt* ſquadron, and upwards of 3000 land forces, expecting to be join'd by monſieur *Conflans* ſquadron from the *Weſt Indies*, and a force of 1700 *Canadians* and *Indians*, which lay under command of monſieur *de Ramſay* in *Nova Scotia*, ready for their arrival, and with the whole to recover *Louiſbourg*, conquer *Nova Scotia*, and ravage all the *Britiſh* ſea coaſt on the continent, whoſe providential deliverance now took place.

THAT of the *Maſſachuſetts* troops raiſed for the *Canada* expedition, at firſt 400, and afterwards 300 more, were ſent to ſuccour *Nova Scotia*, a party of whom ſtationed at *Minas* were on the 1ſt of *Jan.* by monſieur *le Corne*, a *French* officer, who made an extraordinary march in a violent ſtorm, ſurprized, 160 kill'd, wounded and taken priſoners, the reſt capitulating upon terms not to bear arms againſt the *French* in *Nova Scotia* for one year. Soon after this *de Ramſay* return'd with his troops to *Canada*, all the other *Maſſachuſetts* troops raiſed for the *Canada* expedition continuing in pay til *September* 1747.

THAT " in the courſe of ſixty years the *Maſſachuſetts* province was " at greater expenſe, and loſt more of its inhabitants, than all the other " colonies upon the continent taken together."

THAT the late war with *France*, begun in the year 1749 by her hoſtile invaſion of *Nova Scotia*, not being repell'd in ſeaſon according to the ſollicitations of the *Maſſachuſetts* province, was from time to time extended, the *French* ſeizing important parts of the country while the *Engliſh* were negotiating about its boundaries at *Paris*, until at length the war blazed forth in a manner notorious to the world.

THAT in the former part of the year 1755 *Maſſachuſetts* province propoſed to *New Hampſhire*, *Connecticut*, *Rhode Iſland*, *New York*, *New*

Jerſey and *Penſilvania* to engage with them to erect, for their common defence, a ſtrong fort near the *French* fort at *Crown-point*, 5000 men at leaſt being deem'd requiſite for this ſervice. The ſouthern colonies gave no anſwer. The *Maſſachuſetts* agreed to raiſe 1200 men, to be commanded by Sir *William Johnſon*; but they raiſed 1500. It was at this time expected the grand expedition upon the *Ohio* under general *Bradock* would draw the enemys chief attention and ſtrength that way; but the unhappy defeat of that army ſo far alarmed the *Maſſachuſetts* aſſembly, that they voted a reinforcement of 2800 men. While theſe troops were raiſing the enemy flush'd with ſucceſs march'd about 2000 men to attack fort *Lyman*, not 50 miles diſtant from *Albany*. After making their appearance they turn'd off, and follow'd general *Johnſon*, who, having ſuperiour numbers to encounter, retreated to the camp, which the enemy attack'd, but were by the valour of theſe new raiſed troops defeated, purſued, and their commander baron *Dieſkau* taken priſoner, this being the firſt check given to the arms of *France* in that war.

THAT the war being afterwards on the part of *Britain* extended, inſpirited, and directed by wiſe and noble counſels, the *Maſſachuſetts* province from year to year raiſed about three tenth parts of the troops raiſed by all the colonies, thereby exceeding in no ſmall meaſure their proportion.

THAT this province hath at all times chearfully complied with the requiſition of their ſovereign, and moreover exceeded the ſame when the public ſervice ſeem'd to require it.

THAT the manifold laudable attempts and public ſervices of the *Maſſachuſetts* province were made and perform'd by the advice of the council appointed according to their preſent charter; wherefore it is humbly conceived the ſame was in this reſpect, as well as in point of inſpiriting the inhabitants, well adapted to promote the public ſervice upon the moſt important occaſions.

THAT this provincial council hath been moſt unjuſtly miſrepreſented various ways, as your petitioner is ready to prove by authentic copies of the minutes of their proceedings, enter'd in the council-books by the ſecretary of the province, which your petitioner humbly conceives is the proper evidence in this caſe, and, with other proper proof, ſufficient clearly to ſhew their good conduct while they were ſuffering under the erroneous or injurious treatment of others.

THAT

THAT the adminiſtration of juſtice in criminal and civil cauſes under the preſent charter and laws hath been remarkably free from every ſtain of partiality and corruption.

THAT colonies planted in a diſtant quarter of the globe, and daily extending with difficulty their ſettlements into the wilderneſs, in the nature of the caſe, require an interiour policy ſuitable to their circumſtances, differing widely from thoſe of their mother country, the utility whereof cannot be eaſily diſcerned by perſons who are ſtrangers to their condition.

THAT the ſervices of the *Maſſachuſetts* inhabitants in ſecuring or augmenting the ſources of naval ſtrength, conſidered in their nature and relations, were ſo great and ſeaſonable, that, in your petitioners humble opinion, if they had not taken place the *Britiſh* naval power wou'd certainly not ſo far have exceeded that of *France* as it hath done of late years; nevertheleſs theſe inhabitants are brought into danger of loſing the chief part of thoſe charter rights and privileges which they have bought ſo dear, by a bill depending in this honourable houſe for better regulating their government.

THAT where the charter rights of any of his majeſtys ſubjects are queſtioned in any judicial courſe of proceeding, ſuch ſubjects are timely apprized thereof, that they may appear before the court, and make their defence as well upon the facts as upon the inference to be drawn from thoſe facts; and this courſe of hearing the defendants is eſſential to juſtice; but if the ſaid bill ſhould now paſs into a law it wou'd condemn the inhabitants of the ſaid province unheard.

Therefore your petitioner humbly prays this honourable houſe will be pleaſed to ſuſpend all further proceedings herein until he can give them notice hereof, and they can prepare their defence, and give proper corporate authority for the regular defence of their corporate rights and privileges.

W. BOLLAN.

On the 28th of *April* the right honourable Mr. *Dowdeſwell* preſented this petition, the admiſſion whereof being oppoſed a long debate enſued, and in concluſion it was rejected.

I. To the Right Honourable the LORDS Spiritual and Temporal, in Parliament assembled,

The PETITION of WILLIAM BOLLAN, Esq; Agent for, and in behalf of, the Council of the Province of MASSACHUSETTS BAY;

Most humbly sheweth,

THAT "the bill for the immediate removal of the officers "concern'd in the collection and management of his majestys "duties of customs from the town of *Boston*, in the province of *Mas-* "*sachusetts Bay*, in *North America*, and to discontinue the landing, "discharging, lading and shiping of goods, wares and merchandize at "the said town of *Boston*, or within the harbour thereof," at present depending under consideration of this right honourable house, contains various provisions proposed to be enacted, inconsistent with the ancient and just rights, lawful possessions, usual comforts of life, and common social benefits, with other important interests of all the petitioners constituents, long held in amicable conjunction with the other inhabitants of *Boston* and the province, and the other colonies, and the most desirable connection with innumerable persons employ'd in manufactures, trade and navigation in *Great Britain*, whereby they have been well maintain'd and prospered; and moreover inconsistent with the general circulation of *American* commerce, from which so great benefits are daily received by this kingdom various ways.

THAT the merchants of *Boston* were not partakers of the offense commited by the late destruction of the tea there, nor of any other act of violence; nevertheless, if the present bill be enacted, they will become the chief sufferers, together with numerous *British* merchants, and manufacturers:

Wherefore your lordships petitioner humbly prays that he may be heard before this right honourable house, in order to prevent these provisions from passing to be enacted.

W. BOLLAN.

On

On the 30th of *March*, before the third reading of the bill, the right honourable the earl of *Stair* preſented this petition, which being read, and the petitioners authority produced by his lordſhip, and motion made for the petitioner to be heard, it was oppoſed; whereupon a debate aroſe, which iſſued in their lordſhips order for him to be called in for that purpoſe, and he was heard accordingly.

II. To the Right Honourable the LORDS Spiritual and Temporal, in Parliament aſſembled,

The PETITION of WILLIAM BOLLAN, Eſq; Agent for the Council of his Majeſtys Province of MASSACHUSETTS BAY, in NEW ENGLAND,

Moſt humbly ſheweth,

THAT the charter of this province, which is at preſent compoſed of the ancient colonies of *Maſſachuſetts Bay* and *New Plymouth*, and the province of *Main*, with certain lands lying to the eaſtward, was by their late excellent majeſties king *William* and queen *Mary*, in the 3d year of their reign, granted to the inhabitants, in conſequence of their ſignal ſervices in point of their ſettlement and defence, at great expenſe, and under extreme difficulties and hardſhips, encreaſed by an extenſive frontier, ſubjected to the inroads, devaſtations and cruelties of the *French* and their *Indians*; their majeſties being moreover induced to grant this charter by the *Maſſachuſetts* colony having in the year 1690, at their own expenſe, reduced *Port-royal* to their majeſties obedience, and taken poſſeſſion in their behalf of 90 leagues, or more, of the weſtern ſea coaſt, and by the ſaid colonies having afterwards, in the ſame year, made an expedition againſt *Canada*, tho' without ſucceſs, conſiſting of between 30 and 40 ſail of ſhips great and ſmall, and 2000 men, the great expenſe whereof being wholly unable to pay, they then made the firſt uſe of paper bills of public credit, to ſerve in common payments, which, tho' a temporary partial relief, became in time a general grievance, under which the province labour'd fifty years, or more.

THAT in the year 1704, to annoy the *French* ſettlements on the ſea coaſt, this province raiſed 550 men, with 14 ſmall tranſports, and 36 whale boats, convoy'd by the *Jerſey* and *Goſport* ſhips of war, with the province Snow. They ravaged ſeveral of the enemies ſmall ſettlements;

but when they came before *Port-royal*, both ſea and land officers agreed no attempt ſhould be made to reduce it.

THAT early in the year 1707 this province raiſed 1000 men to ravage *Nova Scotia*, and, if practicable, to reduce *Port-royal*, being ſtrengthened by forces from *Rhode Iſland* and *New Hampſhire*: they were convoy'd by the *Deptford* ſhip of war, and the province galley. This force by two ſeveral expeditions, the army being reinforced in the latter by *Maſſachuſetts* troops attempted in vain that ſummer to reduce *Port-royal*.

THAT in the year 1709, by the queens order, this province, with aſſiſtance from *Rhode Iſland*, raiſed 1200 men, and provided proper tranſports, to be employ'd with conſiderable land and ſea force to be ſent from *England*, to attack *Quebec*, and other *French* ſettlements; but the *Engliſh* forces, being otherwiſe employ'd, did not come that year. In the next a leſſer force came to *Boſton*, which being join'd by two regiments raiſed, and provided with proper tranſports, by the *Maſſachuſetts* province, and two other regiments raiſed by other *New England* colonies, they proceeded, under convoy of ſeveral ſhips of war, againſt *Port-royal*, and reduced it to her majeſtys obedience.

THAT in the year 1711 the queen having reſolved to proſecute a powerful expedition againſt *Canada*, on the 8th of *June* the province received notice of it, with orders for them and other colonies to provide their quota of men, and for the province to provide ten weeks proviſion for the army, amounting to near 7000 men: altho' diſtreſs'd by this ſhort notice, they exerted their utmoſt zeal and vigour to comply with every requiſition, and, among other meaſures, the general aſſembly being ſiting, an order paſs'd to impreſs all proviſions, in whoſe poſſeſſion ſoever; and the fleet conſiſting of 15 ſhips of war, and 40 tranſports, which arrived on the 24th, the addition of ſo great numbers cauſed ſuch a ſudden ſcarcity of all poultry and freſh meat, that if the uſual conſumption of the inhabitants had continued the forces muſt have wanted neceſſary refreſhment; wherefore many of the principal gentlemen in *Boſton* engaged, while the fleet lay there, to eat only ſalt proviſions in their families.

THAT in the former part of the war with *France* begun in the year 1744, *Maſſachuſetts* province ſeveral times ſaved *Annapolis-royal*, by which alone *Nova Scotia* was held, when in imminent danger of falling into the enemies hands.

THAT

THAT in the year 1745, after ſome time deſpairing of ſucceſs in ſo great an enterprize, at length exerting their utmoſt zeal and abilities they form'd and proſecuted, with aſſiſtance from their neighbours, the memorable expedition againſt *Louiſbourg*, declared by its commanders the brighteſt jewel in the crown of *France*, garriſoned by *French* and *Swiſs* ſoldiers, and defended by above 100 cannon mounted; yet theſe new raiſed troops, after bravely making good their difficult landing againſt the party appointed to oppoſe them, with activity and patience enduring the greateſt fatigues and hardſhips, draging by hand their cannon thro' moraſſes deem'd by the enemy impaſſable, raiſing battery after battery againſt this fortreſs, and continuing their labour, prudence, vigilance and valour during a ſiege of ſeven weeks, cover'd by a conſiderable number of ſhips of war, by royal order appointed for this purpoſe, for no convoy or aſſiſtance could be obtain'd from either of the two ſquadrons in *America* upon application to their commanders, they reduced the enemys forts, batteries, and the whole city into ſuch an untenable ſtate that the enemy ſurrender'd it, with all its dependances, to the late kings obedience.

THAT upon your lordſhips petitioners firſt appearance before the lords of the treaſury, as agent for the province, to obtain payment of the expenſes of this expedition, and taking notice how moderate they were, and that the like expedition from *England* would have coſt much more, the firſt lord anſwer'd that he believ'd it wou'd have coſt three times as much, and probably not have ſucceeded.

THAT in the year 1746 *Britain* and *France* having form'd their reſpective great deſigns of enlarging their *American* dominions, and troops being appointed to be raiſed in the northern colonies, to join the *Britiſh* forces, 5000 at leaſt being expected in the whole, out of 8200 raiſed by nine of thoſe colonies 3500 were raiſed, and prepared for embarking in ſix weeks, by the *Maſſachuſetts* province, the chief intent of the whole armament by ſea and land being the reduction of *Canada*; but the *Britiſh* forces never proceeded to execute this deſign, altho' duke *d'Anville* ſail'd with the *Breſt* ſquadron, and upwards of 3000 land forces, expecting to be join'd by monſieur *Conflans* ſquadron from the *Weſt Indies*, and a force of 1700 *Canadians* and *Indians*, which lay under command of monſieur *de Ramſay* in *Nova Scotia*, ready for their arrival, and with the whole to recover *Louiſbourg*, conquer *Nova Scotia*,

and

and ravage all the *British* ſea coaſt on the continent, whoſe providential deliverance now took place.

THAT of the *Maſſachuſetts* troops raiſed for the *Canada* expedition, at firſt 400, and afterwards 300 more, were ſent to ſuccour *Nova Scotia*, a party of whom ſtationed at *Minas* were on the 1ſt of *Jan.* by monſieur *le Corne*, a *French* officer, who made an extraordinary march in a violent ſtorm, ſurprized, 160 kill'd, wounded and taken priſoners, the reſt capitulating upon terms not to bear arms againſt the *French* in *Nova Scotia* for one year. Soon after this *de Ramſay* return'd with his troops to *Canada*, all the other *Maſſachuſetts* troops raiſed for the *Canada* expedition continuing in pay til *September* 1747.

THAT "in the courſe of ſixty years the *Maſſachuſetts* province was "at greater expenſe, and loſt more of its inhabitants, than all the other "colonies upon the continent taken together."

THAT the late war with *France*, begun in the year 1749 by her hoſtile invaſion of *Nova Scotia*, not being repell'd in ſeaſon according to the ſollicitations of the *Maſſachuſetts* province, was from time to time extended, the *French* ſeizing important parts of the country while the *Engliſh* were negotiating about its boundaries at *Paris*, until at length the war blazed forth in a manner notorious to the world.

THAT in the former part of the year 1755 *Maſſachuſetts* province propoſed to *New Hampſhire*, *Connecticut*, *Rhode Iſland*, *New York*, *New Jerſey* and *Penſilvania* to engage with them to erect, for their common defence, a ſtrong fort near the *French* fort at *Crown-point*, 5000 men at leaſt being deem'd requiſite for this ſervice. The ſouthern colonies gave no anſwer. The *Maſſachuſetts* agreed to raiſe 1200 men, to be commanded by Sir *William Johnſon*; but they raiſed 1500. It was at this time expected the grand expedition upon the *Ohio* under general *Bradock* would draw the enemys chief attention and ſtrength that way; but the unhappy defeat of that army ſo far alarmed the *Maſſachuſetts* aſſembly, that they voted a reinforcement of 2800 men. While theſe troops were raiſing the enemy flush'd with ſucceſs march'd about 2000 men to attack fort *Lyman*, not 50 miles diſtant from *Albany*. After making their appearance they turn'd off, and follow'd general *Johnſon*, who, having ſuperiour numbers to encounter, retreated to the camp, which the enemy attack'd, but were by the valour of theſe new raiſed troops defeated, purſued, and their commander baron *Dieſkau* taken priſoner,

priſoner, this being the firſt check given to the arms of *France* in that war.

That the war being afterwards on the part of *Britain* extended, inſpirited, and directed by wiſe and noble counſels, the *Maſſachuſetts* province from year to year raiſed about three tenth parts of the troops raiſed by all the colonies, thereby exceeding in no ſmall meaſure their proportion.

That this province hath at all times chearfully complied with the requiſition of their ſovereign, and moreover exceeded the ſame when the public ſervice ſeem'd to require it.

That the manifold laudable attempts and public ſervices of the *Maſſachuſetts* province were made and perform'd by the advice of the council appointed according to their preſent charter; wherefore it is humbly conceived the ſame was in this reſpect, as well as in point of inſpiriting the inhabitants, well adapted to promote the public ſervice upon the moſt important occaſions.

That this provincial council hath been moſt unjuſtly miſrepreſented various ways, as your lordſhips petitioner is ready to prove by authentic copies of the minutes of their proceedings, enter'd in the council-books by the ſecretary of the province, which your lordſhips petitioner humbly conceives is the proper evidence in this caſe, and, with other proper proof, ſufficient clearly to ſhew their good conduct while they were ſuffering under the erroneous or injurious treatment of others.

That the adminiſtration of juſtice in criminal and civil cauſes under the preſent charter and laws hath been remarkably free from every ſtain of partiality and corruption.

That colonies planted in a diſtant quarter of the globe, and daily extending with difficulty their ſettlements into the wilderneſs, in the nature of the caſe, require an interiour policy ſuitable to their circumſtances, differing widely from thoſe of their mother country, the utility whereof cannot be eaſily diſcerned by perſons who are ſtrangers to their condition.

That the ſervices of the *Maſſachuſetts* inhabitants in ſecuring or augmenting the ſources of naval ſtrength, conſidered in their nature and relations, were ſo great and ſeaſonable, that, in your lordſhips petitioners humble opinion, if they had not taken place the *Britiſh* naval power wou'd certainly not ſo far have exceeded that of *France* as it hath done of late years; nevertheleſs theſe inhabitants are brought into danger of loſing the chief part of thoſe charter rights and privileges which they

have bought ſo dear, by a bill depending in this right honourable houſe for better regulating their government.

THAT when the charter rights of any of his majeſtys ſubjects are queſtioned in any judicial courſe of proceeding, ſuch ſubjects are timely apprized thereof, that they may appear before the court, and make their defence as well upon the facts as upon the inference to be drawn from thoſe facts; and this courſe of hearing the defendants is eſſential to juſtice; but if the ſaid bill ſhould now paſs into a law it wou'd condemn the inhabitants of the ſaid province unheard.

Therefore your petitioner humbly prays this right honourable houſe will be pleaſed to ſuſpend all further proceedings herein until he can give them notice hereof, and they can prepare their defence, and give proper corporate authority for the regular defence of their corporate rights and privileges; and that he may be heard by your lordſhips in ſupport of this petition.

W. BOLLAN.

On the 11th of *May*, before the third reading of the bill, his grace the duke of *Richmond* preſented this petition, and moved that the petitioner might be heard in ſupport of it, which being oppoſed a debate enſued; and the queſtion being put it paſſed in the negative; the petition being order'd to lye upon the table.

III. To the Right Honourable the LORDS Spiritual and Temporal, in Parliament aſſembled,

The PETITION of WILLIAM BOLLAN, Eſq; Agent for the Council of his Majeſtys Province of MASSACHUSETTS BAY, in NEW ENGLAND,

Moſt humbly ſheweth,

THAT the colonies deduced and planted by the *Engliſh* in *America*, were by their eſtabliſhment well entitled to all the benefits of the common law, to be for ever enjoy'd in as ample manner as if the adventurers had continued their abode in *England*.

THAT this was evidently the ſenſe of the ſeveral princes and other parties therein concerned. Sir *Francis Bacon*, one of the grantees of *Newfoundland*, in his advice given to the prime miniſter of king *James*, at

at his desire, when speaking of the colonies, saith, " the general law " by which they must be guided and governed must be the common " law of *England*." In this point the most eminent state lawyers and able statesmen have since concurr'd, as your lordships petitioner conceives, until deviations took place of late years.

That in the year 1667 the house of commons by their impeachment of the earl of *Clarendon* of high treason and high misdemeanours, among other articles, accused him of having introduced an arbitrary government in his majestys foreign plantations, and caused such as complained thereof before his majesty in council to be long imprisoned for so doing; whence the abhorrent sense of arbitrary government then prevailing is manifest, and from his lordships vindication of himself, written in his exile, in answer to this article, among other things, it appears, that one *Farmer* had been sent over by lord *Willoughby*, governour of *Barbadoes*, under a direct full charge of mutiny, sedition and treason, and that his lordships constant opinion, given in council, was that he shou'd be sent back a prisoner, to be tried by the law and justice of the island.

That without a perfect confidence of the original settlers in the royal assurance given under the great seal of the kingdom that themselves, and their posterity, should perpetually enjoy the English right in its plenitude and excellence, they never wou'd have undertaken and suffered the unspeakable difficulties and hardships attending their acquest and settlement of new dominion.

That if their meritorious proceedings had not taken place, the chief part at least of the *British American* empire wou'd in course have fallen into the hands of *France*, whereby her naval power wou'd have been so far augmented that long before this time it wou'd, in all probability, have become insuperable.

That each colony, by its nature and institution, forms a separate society, with a distinct constitution or common-wealth, invested for its safety and well being with the power of dispensing *jus publicum* in cases of murder (whereby the land may be cleansed from the stain of innocent blood) and of other capital crimes.

That by the present charter of the *Massachusetts* province it was granted and ordained, that the general assembly shou'd for ever have full power to constitute judicatories, and courts of record, for the hearing, trying and determining all manner of crimes, capital, or not capital, arising or happening within the same.

That

THAT by an act of the ſaid general aſſembly, made in the year 1699, it was provided that there ſhou'd be a ſuperiour court of judicature, court of aſſize and general goal delivery, over the whole province, to be annually held at the times and places (to wit in the ſeveral counties) therein mention'd, who ſhou'd have cognizance of all pleas of the crown, and puniſhment of offenders, as amply to all intents and purpoſes as the court of kings-bench in *England* hath, with power to give judgment, and award execution.

THAT this court of judicature ſince its eſtabliſhment hath ſo duly diſpenſed juſtice in criminal cauſes, that, the petitioner preſumes, no inſtance can be given of any innocent man who was tried before them for any capital offenſe ſuffering for it; nor of any real offenders eſcaping with impunity; nor of any complaint of their want of ability, or integrity; nor of the jurors partiality or corruption, the jurors and witneſſes having a deep ſenſe of the obligation of an oath.

THAT by the charter aforeſaid it is thus provided; "the governour "ſhall not at any time hereafter, by vertue of any power hereby granted, "or hereafter to be granted to him, tranſport any of the inhabitants "of our ſaid province out of the limits of the ſame, without their free "conſent, or the conſent of the general aſſembly."

THAT nevertheleſs by the bill depending in this right honourable houſe, "for the impartial adminiſtration of juſtice, in the caſes of per-"ſons queſtioned for any acts done by them in the execution of the "law, or for the ſuppreſſion of riots and tumults in the province of "*Maſſachuſetts Bay* in *New England*," ſuch a new mode of proceeding and trial of perſons in certain caſes, charged by inquiſition, indictment, or appeal, with murder or other capital crime commited within the ſaid province, is propoſed to be enacted as is inconſiſtent with the known principles of common law, the common ſafeguard of the ſubject, the general, conſtitutional, and neceſſary ſyſtem of colonic juriſprudence, and the ſpecial rights and privileges of the *Maſſachuſetts* inhabitants.

THAT by this new mode of proceeding authority is given *ſub modo* to the *Maſſachuſetts* governour to tranſmit the party accuſed to be tried in ſome other colony, or in *Great Britain*, and to ſecure his perſonal appearance, with that of all ſuch witneſſes as the proſecutor or perſon accuſed ſhall deſire to attend the trial.

THAT this compulſory obligation of witneſſes inhabitants of the *Maſſachuſetts* province to travel into ſome other colony, or to tranſport themſelves acroſs the Atlantic ocean hither to give their evidence, will frequently be attended, more eſpecially in the latter caſe, with great

difficulties

difficulties and hardſhips, or the utter ruin of many innocent perſons; for thereby they will be ſubjected to leave their native country, their habitations, their families, and their buſineſs, which is their ſupport, and to be expoſed to the difficulties and perils of the ſeas, however averſe to them.

THAT the like difficulties will attend the appellants in caſes of murder, upon the proſecution of their appeal.

THAT the conjecture or preſumption of apprehenſion ariſing in the minds of certain perſons, that a failure of juſtice in reſpect to them will take place in that ſuperiour court of judicature which from its eſtabliſhment hath been conſtantly free from partiality and corruption, doth not, in the petitioners humble opinion, afford any ſolid reaſon for diminiſhing ſo far their authority, with the rights of the inhabitants, and eſtabliſhing ſuch a courſe of judicial proceeding in capital cauſes as is not to be found in the hiſtory of juriſprudence.

THAT the proviſions contain'd in this bill, conſidered in their nature and operations, do upon the whole matter, in the petitioners humble opinion, tend to promote the impunity of capital offenders, the bane of human ſociety.

Wherefore your lordſhips petitioner moſt humbly prays that the ſame may not paſs to be enacted, and that he may be heard by your lordſhips in ſupport of his petition.

W. BOLLAN.

On the 18th of *May*, before the third reading of the ſaid bill, this petition was preſented by his grace the duke of *Richmond*, who moved that the petitioner might be heard in ſupport of it. This being oppoſed a debate thereupon aroſe, which being cloſed, and the queſtion put, it paſſed in the negative; the petition being ordered to lye upon the table.

The petitioners authority having been queſtioned, the ſame is here inſerted.

Province of the Massachusetts Bay.

In Council, *October* 25, 1770.

THE preſent critical ſituation of the public affairs now depending in *Great Britain*, wherein this province in general, and this board in particular are concerned, requiring that ſome gentleman of abilities and integrity ſhould be employed as agent for this board, to tranſact ſuch matters as may be commited to his care and management; and this board fully ſenſible of the zeal and fidelity of *William Bollan*, Eſq; (now in *London*) in the diſcharge of that truſt hitherto, and of his care and ſollicitude to promote the intereſt of this province. Thereupon,

Voted unanimouſly, that the ſaid *William Bollan*, Eſq; be, and he is hereby appointed and authoriſed (on behalf of this board) to appear before his majeſty in council, in the ſeveral houſes of parliament, and at any other board whatever in *Great Britain*, there to plead and defend, as the exigency of the caſe, and the ſervice of the province may require, agreeable to ſuch directions or inſtructions as from time to time he may receive from the council (or from ſuch committee as may by them be authoriſed and appointed for that purpoſe) entirely relying on his vigilance, and the exertion of his utmoſt endeavours to ſupport the conſtitutional rights of this board, and of the province, and to guard againſt, and (as far as in him lies) to obviate whatever may have a tendency to prejudice the ſame.

Copy examined. Jn. Cotton, D. Sec.

A. Oliver, Sec.

In Council, *June* 26, 1773.

ORDERED that *Iſaac Royal*, *John Erving*, *William Brattle*, *James Bowdoin*, *James Pitts*, *Samuel Dexter*, and *John Winthrop*, Eſqrs; be a committee to write to and correſpond with *William Bollan*, Eſq; agent in *Great Britain* for his majeſtys council of this province in the receſs of the general court.

A true copy. Tho. Flucker, Sec.

Atteſt. Tho. Flucker, Sec.

The

The vote of the 25th of *October*, 1770, ſets forth clearly the nature of the truſt repoſed in the petitioner, with the authority granted to him for its execution; and their vote of *June* 26, 1773, doth as clearly, in his opinion, manifeſt the renewal and continuance of the ſame; and it is to be obſerved that the council were, by the charter made partakers of legiſlative authority, as well as aſſiſtants of the governour.——*Facultas defenſionis non eſt anguſtanda.*

According to the fundamental principles of the *Engliſh* conſtitution, protection and allegiance form the connection or compact of the prince and ſubject, whereby they are mutually bound to perform their reſpective duties, which are in their nature coextenſive, the ſovereign and all his ſubjects being thus joined together *quaſi uno ligamine*. By the common law, the common birth-right of the ſubject, and the law of the revolution, the ſubjects right of petition to the king, which includes the right of ſupporting it, is eſtabliſhed, the right of petition to parliament on proper occaſion being founded in equal reaſon. The general concluſion of the petition of right to the king at common law is, *Que le roy luy faſſe droit et raiſon*; and it is notorious the revolution took place in order to obtain the moſt complete and permanent protection and ſecurity of the proteſtant religion, with all the civil rights and liberties of the kingdom, wherein the dignity, ſafety and felicity of the free *Britons* are comprized; a ſecurity the perpetuation whereof is well worthy of continual vigilance, with the vigorous exertion of all the noble efforts that may be requiſite and proper for the effectual repulſion in ſeaſon of every attempt, whether direct or indirect, ſubtle and gradual, or flagrant and daring, made to leſſen this invaluable ſecurity, the corroboration and perpetual endurance whereof were proper objects of ſettling the ſucceſſion of the crown upon the preſent royal family.

Hiſtory being the chief ſource of civil wiſdom, let us remember that the ancient northern nations who overthrew the *Roman* empire, "wherever they paſs'd, and ſeated their colonies and dominions, left a "conſtitution which has ſince been called, in moſt *European* languages, "*the ſtates*, conſiſting of three orders, *noble*, *eccleſiaſtical*, and *popular*, "under the *limited principality* of one perſon, with the ſtile of *king*, "*prince*, *duke*, or *count*." Theſe warlike nations "were often drawn "into the field by neceſſity, and, *as liberty frequently infuſes and ſupports*

"*mag-*

" *magnanimous reſolutions*, ſo were they often excited thereto by a thirſt " after glory. If eminent ſervices had ſome times paved the way to " the *imperial* throne, or at leaſt to ſtations which even kings conde- " ſcended to," theſe conquerors, " on the other hand, introduced a li- " berty which the whole nation enjoy'd. By their many wars they at " the ſame time acquired a knowledge of the art of war, and of the " advantages thence ariſing; ſo that they learned not only to conquer, " but likewiſe to maintain their conqueſts. The *Romans*, on the other " hand, *who had loſt the affection of the inhabitants of their provinces*, " *without which no army is capable of protecting a ſtate*, were now made " ſenſible of thoſe chaſtiſements which injuſtice at length brings upon " itſelf, and combines in revenging the ſo long contemptuouſly diſre- " garded groans of the ſubject."——Let us likewiſe have in conſtant re- membrance how many of theſe free conſtitutions have in the preſent and preceding centuries been deſtroyed by evil deſigns and evil manners; what limited monarchs have, to make themſelves abſolute, by guile and force, ſeparate or united, in manifeſt violation of their oaths, their in- ſtitution, and the ſacred truſt repoſed in them, totally ſubverted ſo many of the noble *European* manſions of liberty, and eſtabliſhed fel deſpotic ſway in their ſtead, without deigning to conſider how great an offenſe it ever was even to " harm the ſecurity of the common-wealth."

It is notorious that in the regal principalities the three eſtates were appointed to ſecure the limitations of the kings authority, with the re- ligious and civil rights and liberties of the kingdom. Monſieur *Col- bert*, miniſter and ſecretary of ſtate to *Lewis* XIV. in his political teſ- tament, addreſſed to his majeſty, ſaith, " the eſtabliſhment of *royalty* " was properly in the begining no more than the election of a *chief*, " to whom they engaged themſelves to obey for the common good, and " who ought to have for his ſubjects the ſame affection that a father of " a family hath for thoſe who compoſe it: ſo that altho' things may " have been much changed ſince in ſeveral monarchies, we muſt always " recur to the truth. Arbitrary power cannot be agreeable to any, and " if the *Turks* had not introduced it amongſt them their emperours wou'd " be much more ſecure. A prince ſhou'd much rather ſeek to reign in " the heart of his ſubjects than to enſlave their wills by the fear of his " power. However as there have been ſome who thought they might " do every thing, that hath given occaſion in certain parts to the con- " vocation of the eſtates, and in others to that which is called *parlia-*

" *ment*

" *ment* or *dyet:* but whatever name is given to ſuch aſſemblies it is ever " the ſame thing, ſeeing the one and the other do but repreſent the en- " tire body of the monarchy, being compoſed of the clergy, the no- " bility, and the third eſtate. Such is for example the *parliament* of " *England.* Good princes have ever been the protectours of theſe " eſtates, and of theſe dyets or parliaments, without caring whether " they ſhould aſſemble them or not, becauſe they wou'd do nothing but " for the advantage of their people, of whom, to ſpeak properly, the " eſtates and the parliaments are the *guardians.* But thoſe who have " had a deſign to encroach upon their liberty, and to introduce an ar- " bitrary government, have never dreaded any thing ſo much, becauſe " this was the rock of their deſires and of their hopes." —— When ſpeaking of kings and their people, he ſaith, " let us examine what " the one and the others are, what they do, and what they are obliged " to do, and we ſhall thereby ſee that if the one owe obedience to the " others, the others owe love and protection to them." Afterwards, among other things, he ſaith, " it is the princes part to give ſucceſs to " that harmony which dependeth entirely upon him, becauſe the peo- " ple will never diſobey him while he ſhall eſtabliſh his reign on juſ- " tice. Now the way to be juſt is to love them every one in right of " himſelf, and not to ſuffer the ſtrong to oppreſs the weak."

It is evident this great miniſter conſider'd parliaments as continuing ſo well principled and diſpoſed that they anſwer'd the end of their no- ble inſtitution, the purity and excellence whereof are the proper ob- jects of royal protection, as well as of the firmneſs and fidelity of their members; nevertheleſs it is notorious they have both at different times, ſeverally or jointly, moſt injuriouſly treſpaſſed upon them. *Richard* II. was the firſt royal treſpaſſer of this kind. In the year 1387, when of full age, he in vain attempted to raiſe the force he wanted to anſwer his purpoſe of domination, and alſo to pack a parliament. " This laſt was " in a legal way to make the nation deſtroy itſelf, which was without " doubt the moſt dangerous deſign; force may enſlave for a time, but " ſlavery by law is likely to be more durable. There are ſeldom any " extreme proceedings in a government but there are depraved perſons " enow in all conditions ready to ſwim with the ſtream, and take the " benefit of any tide of fortune: for when miſchief is to be practiſed " corruption is the conſequence, and there are always thoſe ready whom " no conſideration ballances in their natures with the weight of ho-

" nours and benefit:" and this young prince, to his great misfortune, being extremely fond of arbitrary power, and of thoſe favorites who flattered his hopes of obtaining it, for their own ſakes; " for ill men " ſtudy the nature of princes, good men their intereſt; and that which " is moſt pleaſant ſooner prevails than that which is moſt uſeful," after various exceſſes, in the year 1397, by many illegal practices, he got a parliament returned to his mind; but this in time became one of the principal cauſes of his utter ruin. His great grandfather *Edward* II. had been undone chiefly by the like attachment to his favorites. *Edward* I. and III. had in vain given the beſt examples: they were able to judge, yet *never unwilling to hear the judgment of others*; their promiſes were mankinds ſecurity, and truth their wiſdom.

In the 31ſt year of the reign of *Henry* VIII. the parliament enacted, that " the king for the time being, with the advice of his council, or " the more part of them, might ſet forth proclamations under ſuch " penalties and pains as to him and them ſhould ſeem neceſſary, which " ſhould be obſerved as tho' they were made by act of parliament; but " this ſhould not be prejudicial to any perſons inheritance, offices, li- " berties, goods, chattels, or life; and whoſoever ſhould willingly of- " fend any article contained in the ſaid proclamation, ſhould pay ſuch " forfeitures, or be ſo long impriſoned as ſhould be expreſſed in the ſaid " proclamation; and if any offending would depart the realm, to the " intent he would not anſwer his ſaid offenſe, he ſhould be adjudged " a traitor:" And by the parliament holden in the 34th and 35th years, " for the due execution of the ſaid proclamations it was enacted, that " judgment might be given againſt any of the offenders by nine of " the kings council;" but both theſe acts were repeal'd by ſtat. 1 *Edward* VI.——Sir *Walter Ralegh*, ſpeaking of *Henry* VIII. ſaith " if " all the pictures and patterns of a mercileſs prince were loſt in the " world, they might all again be painted to the life out of the ſtory of " this king."

Rapin obſerves that experience hath confirmed on numberleſs occaſions, that by ways like thoſe practiſed by *Richard* II. it is very poſſible to cauſe repreſentatives to be choſen devoted to the court. Afterwards, he ſaith, that " it is impoſſible for a nation to ſee their liberties in the " hands of men whom they have not themſelves freely choſen, with- " out deſiring to be delivered from ſuch an oppreſſion."——When the prince becomes maſter of the public elections, or of the votes of the

perſons

perſons elected, where is that ſtable ſecurity of the invaluable rights of the kingdom, the preſervation whereof their common duty requires, to be found? Or how to be recover'd when loſt, unleſs by the vigorous exerciſe of public vertue, whoſe magnanimous efforts have ſo often prevailed?

A noble writer in the year 1681 made this obſervation. "It is in "*England* only that the antient generous manly government of *Europe* "ſurvives and continues in its original luſtre and perfection:" yet within a few ſucceeding years, a bold attempt was made to deprive the kingdom of its religious and civil liberties. To compaſs this malignant purpoſe king *James* having ſummoned his firſt parliament, "all "arts were uſed to manage elections ſo that the king ſhould have a par-"liament to his mind"; and with ſo great ſucceſs, that "when the "elections were all returned, the king ſaid there were not above forty "members but ſuch as he himſelf wiſhed for:" however, notwithſtanding this and his other ſucceſſes in the former part of his reign, every one knows that his continued violation of the ſacred and civil rights of the kingdom cauſed the revolution; whence perſons of all degrees may perceive the juſtice of *Ciceros* obſervation, "that all things "are uncertain when RIGHT is departed from"; the truth whereof *Cæſar* and this prince ſo ſeverely felt.

The COUNCILS DEFENCE againſt the CHARGE of certain MISDEMEANORS in the Years 1768 and 1773.

THE common law preſumes the ſubjects innocent until lawful evidence proves them guilty, unleſs by their avoidance to appear and anſwer they loſe the benefit of this preſumption.

Epiſtolary correſpondence between the kings ſervants, or their letters, are not lawful evidence againſt any other the kings ſubjects, to prove their commiſſion of any offenſe; and, it is preſumed, the introduction, with the eſtabliſhment, of this ſort of proof, in any caſe where the property, reputation, liberty, or other right of the ſubject is concerned, would be attended with miſchief and danger, more eſpecially when the matter relates to the diſtant parts of an empire, and prejudice, the enemy of truth and juſtice, takes place of free defenſe; for thereby oppreſſive and evil-minded perſons, employed in remote public ſervice, would have it in their power, by their guile, and their unjuſt repreſentations, to veil their own offenſes and deſigns, and at the ſame time to ſubject the innocent to cenſures and ſufferings, whence great grievance and public miſchiefs would enſue; nevertheleſs this kind of proof, according to the beſt information the council have been able to obtain, was the primary and principal ſource of the proceedings againſt them.

Their ſollicitations to make their defence before the judge competent, it is conceived, corroborates the preſumption of their innocence; nevertheleſs their caſe making a material part of the unhappy controverſy that hath ſo long ſubſiſted between the kingdom and the colonies, it is deemed neceſſary and proper to conſider their conduct on the great occaſions that aroſe in the years 1768 and 1773, which have been attended with ſo great and durable conſequences. For the better underſtanding whereof it may be obſerved that the act for repealing the ſtamp act received the royal aſſent on the 18th of *March*, 1766; and from the minutes or journals of the councils proceedings, which are enter'd and kept by the ſecretary of the province, appointed by the king, it appears that on the 18th of *Auguſt*, 1766, "his excellency "(governour *Bernard*) laid before the council a letter from the ſurveyor

" general (*John Temple*, Eſq;) with a repreſentation of ſome riotous
" proceedings in reſcuing ſeven hogſheads and one tierce, and part of
" an hogſhead, and part of a tierce of ſugar, and three hogſheads
" and two ullages of rum, from the officers of his majeſty's cuſtoms
" in *Falmouth*, in the county of *Cumberland*, which they had ſeized
" and marked as forfeited to his majeſty; whereupon the council ad-
" viſed that a proclamation ſhould be iſſued, with a reward of fifty
" pounds, for diſcovering the offenders, or any of them, wherein the
" civil officers ſhould be called upon to ſupport and maintain the offi-
" cers of the cuſtoms in the recovery of ſaid goods, and in all matters
" relative thereto in the due execution of their office, and alſo to uſe
" their utmoſt endeavours for diſcovering, apprehending, and bringing
" to juſtice the ſaid offenders —— And further adviſed that a letter
" ſhould be wrote to *Jeremy Powell*, *Enoch Freeman*, *Alexander Roſs*, and
" *Stephen Longfellow*, Eſqrs. juſtices of the peace for the county of *Cum-
" berland*, directing them to meet and conſult together, and do what
" was proper as ſoon as might be in this buſineſs, and make return
" of their doings as ſoon as might be:" this being the ſole complaint
of oppoſition made to the officers of the cuſtoms, and laid before the
council, from the repeal of the ſtamp act til *June* 1768——That on
the 4th of *March*, 1768, governour *Bernard*, in his ſpeech made at the
prorogation of the general court, expreſſed himſelf thus. " Gentle-
" men of the council. I return you thanks for your ſteady, uniform
" and patriotic conduct during this whole ſeſſion, which has ſhewn
" you impreſſed with a full ſenſe of your duty to your king and to
" your country. The unanimous example of men of your reſpectable
" characters cannot fail of having great weight to engage the people
" in general to unite in proper means to put an end to the diſſention
" which has ſo long haraſſed this province in its internal policy, and
" diſgraced it in its reputation abroad. I ſhall not fail to make a
" faithful repreſentation to his majeſty of your merit upon this occa-
" ſion. *Francis Bernard.* Council-chamber, *March* 4, 1768. A
" true copy, atteſt. *John Cotton*, D. Secretary."——That on the 16th
of *March*, 1768, as appears by the ſaid minutes, " his excellency ac-
" quainted the board that he had been requeſted by the commiſſioners
" of his majeſtys cuſtoms that he would grant unto them, and the offi-
" cers of the cuſtoms under their direction, ſuch aid and aſſiſtance as
" the law directs, and the exigency of the caſe ſhould from time to time
" require;

" require; whereupon it was adviſed that his excellency would iſſue " a proclamation, enjoining, commanding, and requiring all his ma- " jeſtys officers and ſubjects within the province to be aiding and aſſiſt- " ing to the ſaid commiſſioners, and unto all officers of the cuſtoms " under their direction or authority in the execution of their reſpective " offices."

Having aſcertained the councils good conduct, with their reputation, in the former part of the year 1768, let us now examine the following tranſactions of that year that occaſioned the introduction of ſea and land force into the port of *Boſton*, which, with other adverſe proceedings, have cauſed ſo great diſcord between the kingdom and the colonies, with ſuch miſchiefs, dangers, and difficulties of reſtoring their cordial and ſolid union, for their mutual welfare, that no man can forſee the end of theſe improvident meaſures, and which, among other things, occaſioned ſo great cenſures to be erroneouſly paſs'd upon this council various ways.

On the evening of Friday *June* 10th, the collector and comptroller of the cuſtoms at *Boſton* ſeized the ſloop *Liberty*, belonging to Mr. *Hancock*, a merchant there, when lying at his wharf, without ſails or riging, as a convenient ſtore for his merchandize, then containing 120 barrels of oil, which had never been part of her cargo, for breach of the acts of trade, and put the whole into cuſtody of an officer of the *Romney* ſhip of war, who removed the ſame into the ſtream, ſo as to place them under command of her guns. When officers of the cuſtoms ſeize the ſhips and goods of merchants for a ſuppoſed breach of commercial laws, expecting thereby to advance their own profit, it is certainly requiſite they ſhould regulate their own proceedings by law; whereas in this caſe the kings civil and military officers, united or ſeparate, had no lawful authority to make this removal of the veſſel and goods from the place where they lay in ſafety, this removal being dangerous in its nature, and of evil example, as well as unlawful; for by ſuch irregular conduct the moſt valuable cargoes of merchants in any of the *Britiſh* ports, when veſſels are ſeized, lawfully or unlawfully, would be ſubjected to danger various ways. The officers of the cuſtoms had lawful authority to ſeize this veſſel; but by the removal aforeſaid they abuſed their authority, and ſo became treſpaſſers *ab initio*; for when the law gives authority it judgeth by the act ſubſequent *quo animo* the perſon authorized acted; for *acta exteriora indicant interiora ſecreta*; where-

fore

fore the innumerable miſchiefs and dangers that have enſued upon this ſeizure were founded in the violation of law.

Upon this ſeizure and removal a mob immediately aroſe, and commited ſeveral outrages, in conſequence whereof the following proceedings took place in council the next morning, to wit, "In council, "*June* 11th, 1768. His excellency obſerved to the board, that altho' "no regular complaint had been laid before him, yet he could not "but recommend to their conſideration as a matter of public notoriety "the great diſorders that had taken place in the town of *Boſton* the laſt "evening, when divers of the kings officers were perſonally inſulted "and abuſed, and ſome of them had their windows broken, to the "great diſturbance of the public peace——The affair was accordingly "debated, and thereupon——Adviſed and ordered that thoſe gentle-"men of the board who are qualified as juſtices of the peace in the "county of *Suffolk*, viz. *Samuel Danforth*, *Benjamin Lincoln*, *William* "*Brattle*, *Nathaniel Sparhawk*, *Jeremy Powell*, and *Samuel Dexter*, "Eſqrs. do as ſoon as may be make enquiry into the particular facts, "and report the ſame to the governour in council, that ſo they may "take proper meaſures upon this intereſting occaſion."

The governour having then deſired the committee to meet him in council on *Monday* morning, in order to proceed on the enquiry, they attended accordingly; but inſtead of his proceeding therein he put it off *ſine die*. This ſtrange conduct was in time explained, for *American* papers being afterwards laid before the houſe of commons their votes mentioned depoſitions relative to this riot, encloſed to the earl of *Hillſborough* in governour *Bernards* letter dated *June* 14th 1768, whence it appeared that governour *Bernard* waved the proper enquiry in council, which he had ſo far promoted, in order directly to take depoſitions *ex parte*, touching the ſubject matter of it, and tranſmit them to the ſecretary of ſtate.

Juncta juvant; and while the governour was thus employed, in the evening of *Monday* the 13th, four of the commiſſioners of cuſtoms, without being injured in perſon or habitation, withdrew from their proper poſt, and went on board the *Romney*, with intent to exerciſe their office there ſome time, and then to remove to the caſtle.

Governour *Bernard*, and his adherents having taken their meaſures ſuitable to their deſigns, he let the diſorder of the 10th of *June* reſt until the 22d of *July*, when he mentioned it, with other matters, in

council,

council, and on the 27th " laid before the board in writing the mat-
" ters he had ſuggeſted to them on *Friday* the 22d, more particularly
" relating to the riot on the evening of the 10th of *June*. —— The
" board deſired time to conſider of the matters laid before them by the
" governour: the board was accordingly adjourned to *Friday* the 29th,
" nine o'clock in the forenoon, for them to give in their anſwer. ——
" In council *July* 29th, 1768. The board being met according to ad-
" journment gave in their anſwer to what his excellency had propoſed
" to them on *Wedneſday* the 27th, which was unanimouſly agreed to—
" and thereupon ordered by the governour, that the ſecretary prepare
" a proclamation for the purpoſes therein mentioned, and that the at-
" torney general proſecute all perſons guilty of the riots and diſorders
" on the 10th of *June* aforeſaid, or that any way aided or abetted the
" ſame."

Mr. *Hutchinſon* was at this time, as he had ſeveral years been, lieu-
tenant governour, and chief juſtice of the province, and now aſſuming
the office of cenſor of the council, by his letter of the 18th of *June*
1768, written to a member of parliament, he ſtates the ſeizure and
removal of the ſloop *Liberty*, with the conſequent proceedings of the
ſeveral parties concerned, in the words following. " In the evening
" of the 10th, a ſloop belonging to Mr. *Hancock*, a repreſentative for
" *Boſton*, and a wealthy merchant, of great influence over the popu-
" lace, was ſeized by the collector and comptroller for a very notorious
" breach of the acts of trade, and, after ſeizure, taken into cuſtody
" by the officer of the *Romney* man of war, and removed under com-
" mand of her guns. It is pretended that the removal and not the
" ſeizure incenſed the people. It ſeems not very material which it
" was — a mob was immediately raiſed, the officers inſulted, bruiſed
" and much hurt, and the windows of ſome of their houſes broke; a
" boat belonging to the collector burnt in triumph, and many threats
" uttered againſt the commiſſioners and their officers, no notice being
" taken of their extravagance in the time of it, *nor any endeavours by*
" *any authority, except the governour the next day, to diſcover and puniſh*
" *the offenders*; and there being a rumour of an higher mob intended,
" *Monday* (the 13th) in the evening the commiſſioners, four of them,
" thought themſelves altogether unſafe, being deſtitute of protection,
" and removed with their families to the *Romney*, and there remain
" and hold their board, and next week intend to do the ſame, and alſo

" open the cuſtom-houſe at the caſtle. *The governour preſs'd the coun-*
" *cil to aſſiſt him with their advice, but they declined and evaded,* calling
" it a bruſh or ſmall diſturbance by boys and negroes, not conſidering
" how much it muſt be reſented in *England,* that the officers of the
" crown ſhould think themſelves obliged to quit the place of their re-
" ſidence, and go on board a king's ſhip for ſafety, *and all the internal*
" *authority of the province take no notice of it.*"

This ſtate of facts with reſpect to the conduct of the council is apparently incompatible with the verity of the matter ſet forth in the journals of their proceedings, differing indeed *toto cælo* from it. Truth and juſtice are above all human rulers, who are indiſpenſably obliged to conform their actions to them, whatever their authority may be; and when volunteers in information againſt the council of their country, in writing their letters to the members of the grand council of the kingdom, make ſuch unjuſt repreſentation the parties injured, after verifying the ſame, are not in ſtrictneſs bound to attend to their ſubſequent relations; but the proceedings at this memorable period, conſidered in their nature and effects, being ſo extremely intereſting to the kingdom and the colonies, it is proper for their ſakes to examine other parts of this ſtate of facts, with ſubſequent matters, wherein becoming advocate for the commiſſioners of the cuſtoms, he endeavours to juſtify their retreat from their poſt. The firſt reaſon he aſſigns for it is " ma-
" ny threats uttered againſt them;" whereas governour *Bernard,* in his application made to the council on the 11th reſpecting this diſorder, made no mention of theſe threats againſt the commiſſioners; and Mr. *Hutchinſon,* in his ſecond letter, dated *Auguſt* 1768, ſays " the commiſ-
" ſioners were *informed they were* threatened." The ſecond reaſon is, " there was no notice taken of the extravagance at the time of it;" whereas no notice could then be taken of it, as it happened in the evening, was ſudden, and of ſhort continuance. His third reaſon is, " a
" rumour of a higher mob intended." It is preſumed the rumour of a mob was never before aſſigned as a reaſon for any kings officers withdrawing from their proper poſt. His fourth and laſt reaſon is that they thought themſelves unſafe, being deſtitute of protection; yet it is not pretended they had applied for protection, and apparent that the council had upon other occaſions done every thing in their power to promote the protection of them and their inferiour officers, and on the preſent occaſion, as puniſhing the treſpaſſers upon inferiour officers plainly tends

to

to ſecure their ſuperiours, it is evident the faithful endeavours of the council herein were ſuſpended, until the governour and others had diſpatched their operative meaſures to promote their deſigns in *England*— In farther anſwer to the reaſons given for the commiſſioners withdraw, it is to be obſerved, 1ſt. that no act of violence was offer'd to their perſons, or habitations, nor any then, or ſince, pretended. 2dly, that Mr. *Williams*, inſpector of the cuſtoms, whoſe houſe was beſet, and conſiderably damaged, ſtood his ground, and openly defended himſelf againſt a far greater mob that afterwards aroſe, without flying for ſhelter, or ſeeking any protection. Laſtly, Mr. *Hutchinſon* hath evinced the inſufficience of his arguments for the commiſſioners withdraw, by what is ſaid in his third letter, dated *October* 4th, wherein, after ſeting forth far greater danger to have attended himſelf, he ſaith, " *In this* " *ſtate of things there was no ſecurity but quiting my poſts, which nothing* " *but the laſt extremity would juſtify.*"

By act of parliament 6 *Geo.* 3d. cap. 18. it was enacted, that during its continuance it ſhould and might be lawful for the officers therein named, within his majeſtys dominions in *America*, and they were thereby " required to quarter and billet the officers and ſoldiers in his ma- " jeſtys ſervice in the barracks provided by the colonies; and if there " ſhould not be ſufficient room in the ſaid barracks for the officers and " ſoldiers, *then*, and in ſuch caſe *only*, to quarter and billet *the reſidue* " of ſuch officers and ſoldiers, for whom there ſhould not be room in " ſuch barracks, in inns" &c. And Mr. *Hutchinſon*, by his letter of the 4th *October*, ſaith, " two regiments are landed, but a new grievance " is now raiſed. The troops are by act of parliament to be quartered " no where elſe but in the barracks, until they are full. There are " barracks enow at the caſtle to hold both regiments; it is therefore " againſt the act to bring any of them into town. This was ſtarted " by the council in their anſwer to the governour." No plainer law could be made for directing the troops to be quartered in the barracks *only*, *until full*; yet, in ſubverſion of it, he is pleaſed to ſay that " *none* " *but the moſt contracted minds could put ſuch a conſtruction upon the act.*"

The council, when the general aſſembly was ſiting in *June*, were unanimous in their opinion that it was proper for them to petition the king, and the two houſes of parliament, upon the ſubject of the revenue acts; and their petition to the king being prepared, was under their conſideration at the time of governour *Bernards* proroguing the aſſembly,

bly, and might have been completed the ſame day; but, tho' ſtrongly importuned, he would not ſuffer it to be done; however, in *July* following, at a board of council, they agreed on a petition to the king, and deſired governour *Bernard* to ſend it to lord *Hillſborough* to be laid before his majeſty, requeſting him to recommend the prayer of it; but he ſent it with ſuch comments as tended to defeat it. The petition was afterwards laid before the king by his lordſhip, who by his letter of the 14th of *September* informed the governour, that his majeſty received the petition very graciouſly, and that it would, together with his reaſonings thereon, be taken into conſideration. Afterwards it failed of ſucceſs. When this petition was prepared in council, they were deſirous to petition the two houſes of parliament likewiſe, but the governour not conſenting it was dropt.

The council being thus prevented from petitioning parliament, the major part of them in the begining of *December*, on conſidering the great diſtreſs of the province, founded in the revenue acts, and now much augmented by the introduction of military forces, diſpatched in conſequence of the cooperative repreſentations made by the kings officers of the mob that aroſe on the 10th of *June*, with other concomitant proceedings, took the only method in their power to petition the two houſes of parliament. Their petition to the Lords being in the following words.

To the Right Honourable the Lords Spiritual and Temporal, in Parliament aſſembled,

The humble Petition of the major part of his majeſtys council of the province of Massachusetts Bay.

HIS majeſtys moſt dutiful and loyal ſubjects the council of the ſaid province being rendered unable by the diſſolution of the general court to addreſs your lordſhips in their legiſlative capacity, we, the major part of the ſaid council (the other members living too remote to join with us) beg leave to do it on a ſubject of the greateſt importance, not only to this province and the colonies in general, but to *Great Britain* in particular, and humbly to repreſent to your lordſhips,

That the firſt ſettlers of *New England*, more attentive to religion than worldly emolument, planted themſelves in this country with a

view

view of being ſecure from religious impoſition, and not with any expectations of advancing their temporal intereſts, which the nature of the ſoil forbad them to indulge.

THAT they obtained a patent of this country from king *Charles* the firſt, which, tho' vacated in the unhappy times of *James* the ſecond, revived in the preſent charter of the province, which was granted in the ſucceeding glorious reign of king *William* and queen *Mary*, who by ſaid charter confirmed to their ſubjects in this province divers important rights and privileges, particularly all ſuch as are eſſential to and conſtitute the peculiar happineſs of *Britiſh* ſubjects, founded in the immutable laws of nature and reaſon, and inſeparable from the grand and ultimate end of all government, the ſecurity and welfare of the ſubject; and which have been enjoyed til of late without interruption.

THAT from the length and ſeverity of the winters, the infertility of the ſoil, and the great labour neceſſary to ſubdue it, they underwent incredible hardſhips.

THAT beſides the climate and ſoil they had to contend with a numerous and barbarous enemy, which made frequent inroads upon them, broke up their exteriour ſettlements, and ſeveral times had nearly accompliſhed their utter deſtruction, by means whereof they were kept in perpetual alarms, and their country made the ſcene of rapine and ſlaughter.

THAT nothing but the moſt invincible fortitude, animated by the principles of religion, and the warmeſt attachment to that civil liberty which the *Britiſh* conſtitution ſo happily defines and ſecures, could have enabled them to ſuſtain the hardſhips and diſtreſſes that came upon them by theſe cauſes ——Nothing leſs could have induced them to perſevere in the ſettlement of a country from which in its beſt eſtate they had only to expect a ſcanty ſubſiſtence, and that in conſequence of their unremited labour.

THAT by this labour, theſe hardſhips and diſtreſſes, they not only dearly purchaſed their ſettlements here, but acquired an additional title over and above their common claim as men, and as *Britiſh* ſubjects, to the immunities and privileges granted them by charter, and which they have tranſmited to their children and ſucceſſors, the preſent inhabitants, his majeſtys faithful ſubjects of this province.

THAT the preſent inhabitants, tho' more happily circumſtanced than their anceſtors, and tho' ſome among them (eſpecially in the trading

towns) may live in affluence, yet from the operation of the ſame cauſes (the length and ſeverity of the winters, and the ſtubborneſs and infertility of the ſoil) are now able, with all their labour to obtain but a comfortable, and many of them but a ſlender ſupport for themſelves and families, their cloathing, of which in this cold climate more is required than otherwiſe would be neceſſary, and which (ſome ſmall part made by themſelves only excepted) is made of the woolens and other manufactures of *Great Britain*; the other neceſſary articles of ſubſiſtence, and the yearly taxes upon their polls, and on their real and perſonal eſtates, requiring the whole, or nearly the whole, produce of their lands.

THAT by their means his majeſtys dominions have been enlarged, his ſubjects encreaſed, and the trade of *Great Britain* extended; all in a degree envied by her enemies, and unexpected by her friends; and all without any expenſe to her til the late war.

THAT in the late war, without recurring to the former expeditions againſt *Canada*, to the reduction of *Nova Scotia* in 1710, to the preſervation of it ſeveral times ſince, to the conqueſt of *Louiſbourg*, with its dependent territories in 1745, the reddition of which was eſteemed by *France* an ample equivalent for all her conqueſts during (on her part) a ſucceſsful war, and gave peace to *Europe*, upon his majeſtys requiſitions, and the requiſitions of his royal grandfather, this province in the laſt war yearly raiſed a large body of troops, to aſſiſt in conjunction with other colony troops in reducing the *French* power in *America*, the expenſe whereof was very great, and would have been inſupportable had not part of it been refunded by parliament, from a conviction of our inability to bear the whole.

THAT the loſs of men in the ſeveral campaigns of that war was great, and to ſo young a country very detrimental, and could not be compenſated by grants of parliament, and to which thoſe grants had no reſpect.

THAT the acquiſition of ſo large a part of *America* by his majeſtys arms, tho' a great national good, and greatly beneficial to the colonies, as thereby they have been freed from the hoſtilities of the *French*, and (in a good meaſure) of the *Indians* that were under their influence, has in divers reſpects operated to the detriment of the colonies; particularly by diminiſhing the value of real eſtates, and drawing their inhabitants from them to ſettle the new acquired territories.

THAT the ſaid acquiſitions have occaſioned new and encreaſing demands for the manufactures of *Great Britain*, and have opened to her ſources of trade greatly beneficial, and continually enlarging, the benefits of which center in herſelf, and which, with the extenſive territories acquired, are apprehended to be an ample equivalent for all the charges of the war in *America*, and for the expences of defending, protecting and ſecuring ſaid territories.

THAT this province in particular is ſtil in debt on account of the charge incurred by the late war.

THAT the yearly taxes, excepting the preſent year, on which no public tax has been yet laid, by reaſon of a general valuation of eſtates thro' the province, which could not be completed before the diſſolution of the late general aſſembly, but which will probably be reſumed when a new aſſembly ſhall be called——That the yearly taxes upon the people for leſſening ſaid debt, tho' not ſo great as during the war, are nevertheleſs with more difficulty paid, by reaſon of the greater ſcarcity of money.

THAT the ſcarcity of money in the colonies is owing to the balance of their trade with *Great Britain* being againſt them, which balance (excluſive of the operation of the ſeveral acts of parliament taxing the colonies, by laying certain duties for the purpoſe of raiſing a revenue from them) drains them of their money, to the great embarraſſment of their trade, the only ſource of it.

THAT this embarraſſment is much increaſed by the late regulations of trade, and by the tax acts aforeſaid, which draw immediately from trade the money neceſſary to ſupport it, on the ſupport whereof the payment of the balance aforeſaid depends.

THAT the ſaid tax acts operating to the detriment of the trade of the colonies, muſt likewiſe operate to the detriment of *Great Britain*, by diſabling the colonies from paying the debts due to her, and by laying them under a neceſſity of uſing leſs of her manufactures.

THAT by the uſe and conſumption of the manufactures of *Great Britain*, which are virtually charged with moſt of the taxes that take place there, the colonies pay no inconſiderable part of thoſe taxes.

THAT by ſeveral acts of parliament the colonies are reſtrained from importing moſt of the commodities of *Europe* unleſs from *Great Britain*, which occaſions her manufactures and all commodities coming from her to be dearer charged, which is equivalent to a tax upon them.

THAT

THAT the colonies are prohibited ſending to foreign markets many valuable articles of their produce, which giving to *Great Britain* an advantage in the price of them, is a proportionable and a further tax upon the colonies.

THAT the exports of the colonies, all their gold and ſilver, and their whole powers of remittance, fall ſhort of the charged value of what they import from *Great Britain*.

THAT if it be conſidered what difficulties the colonies encountered on their firſt ſettlement, their having defended themſelves (*Nova Scotia* and *Georgia* excepted) without any expenſe to *Great Britain*; the aſſiſtances given by them in the late war, whereby the empire of *Great Britain* is ſo greatly extended, and its trade proportionably increaſed, the diminution of the value of their eſtates, and the emigration of their inhabitants occaſioned by that extenſion, the loſs of men in the ſaid war peculiarly detrimental to young countries, the taxes on them to ſupport their own internal government, the ſhare they pay of the duties and taxes in *Britain*, by the conſumption of *Britiſh* manufactures for which ſuch valuable returns are made, the reſtraints upon their trade, equivalent to a tax, the balance of trade continually againſt them, and their conſequent inability to pay the duties laid by the acts aforeſaid—If theſe facts be conſidered, we humbly conceive it muſt appear that his majeſtys ſubjects in the colonies have been, and are, at leaſt as much burthened as thoſe in *Great Britain*, and that they are, whilſt in *America*, more advantageous to *Great Britain* than if they were tranſplanted thither, and ſubjected to all the duties and taxes paid there.

WE beg leave to lay this repreſentation before your lordſhips, humbly praying your favourable conſideration of it, and that the charter rights and privileges of the people of this province, and their invaluable liberties as *Britiſh* ſubjects, may be ſecured to them; and that the ſeveral acts of parliament made for the purpoſe of raiſing a revenue in *America* may be repealed.

In the name of the major part of the council aforeſaid,

SAMUEL DANFORTH, Preſident of the Council.

The ſimilar petition to the houſe of commons, was, on the 25th of *January* 1769, preſented by Mr. Alderman *Beckford*, and after it was read, the admittance of it being objected to, great debate enſued, and in concluſion it was without diviſion received and laid upon the table; whereupon a motion was made for refering it, together with other *American* papers, to a committee of the whole houſe. Upon this a freſh debate enſued, with a ſubſequent diviſion, whereon the votes for refering it were 70, and againſt it 133.

When the diſtant member of an empire is thro' the errors, innovations, and unhappy influence of ill-informed, intemperate miniſters, or otherwiſe, reduced into a ſtate of diſtreſs, natural juſtice, the inſeparable companion of authority, with ſound policy, requires that proper application to the proper powers for relief be allowed, and promoted, this being one of the great ligaments of empire, inſtead whereof governour *Bernard* laid difficulties in the way of the councils making their petition. *Evidentia rei* clearly ſhews what the petitions tranſmited to be preſented to parliament were in all reſpects. They were ſent by Mr. *Danforth*, encloſed in his letter to Mr. *Bollan* dated the 5th of *December* 1768, with every appearance of fair proceeding; nevertheleſs Mr. *Hutchinſon*, by his 4th letter to his correſpondent in parliament, dated *Boſton, December* 10th, expreſſeth himſelf thus. "I am "juſt now informed that a number of the council, perhaps 8 or 10, "who live in or near this Town, have met together, and agreed upon "a long addreſs or petition to parliament, and that it will be ſent by "this ſhip to Mr. *Bollan* to be preſented. Mr. *Danforth, who is pre-* "*ſident of the council,* told the governour upon enquiry that it was ſent "to him to ſign, and he ſuppoſed the reſt of the council, who had "met together, would ſign after him in order; but he had ſince found "that they had wrote over his name, *by order of council,* which makes "it appear to be an act of council. This may be a low piece of cun- "ning in him, but be it as it may, it is proper it ſhould be known that "the whole is no more than the doings of a part of the council only, "although even that is not very material, ſince if they had all been "preſent without the governours ſummons the meeting would have "been irregular and unconſtitutional, and ought to be diſcountenanced "and cenſured."

The difference between this repreſentation and the reality of the tranſaction is ſo apparent that it wants no explanatory obſervation.——

The offices of lieutenant governor and chief justice, which Mr. *Hutchinson* now sustained, gave him no authority to censure the proceedings of the members of the council; but as they would probably encrease the credit of his epistolary information, they encreased the necessity of his taking care that the same was just.

"I have found," saith *Sallust*, "that all kingdoms, cities and nations "prospered in empire so long as they observed true counsels;" and it is evident that true counsels require true information, with a true sense of their subject matters considered in their nature and all their relations. *Agrippa*, one of the most noble *Roman* citizens, who obtained for *Augustus* the command of the world, when that prince consulted him and *Mæcenas* respecting his laying down arms, and resigning his power to the senate and people, francly advised him to restore the commonwealth, and, among other things, after censuring those who make an ill use of good fortune, he said, "*How is it to be expected that they who* "*are not of a candid mind, nor use the good things offered to them with* "*moderation, will govern others well, or rightly bear calamities.*" And *Mæcenas* in the conclusion of his advice, which, in the opinion of the illustrious *Bæcler*, may be rightly called a compendium of monarchic policy, said, "*I omit many things, it being impossible to mention them all* "*together. One thing I shall mention, which is the chief of all that hath* "*been, or remains to be, said; for if yourself shall spontaneously act in the* "*same manner as you would another should under whose government you* "*were, you will not offend in any matter, but will conduct yourself rightly* "*in all things.*"—Here we have solid reasons for the excellent maxim, that *every government immoderately exercised is tyranny.*

The conduct of the council relative to the tea shipt by the *East India* company for the port of *Boston*, in the year 1773, will appear from the petition of the consignees, and the proceedings in council enter'd upon their journals as follows.

To his Excellency the GOVERNOUR, and the Honourable his MAJESTYS COUNCIL.

The PETITION of *Richard Clarke* and Sons, of *Benjamin Faneuil*, and *Thomas* and *Eliſha Hutchinſon*.

THAT the honourable *Eaſt India* Company in *London* have ſhipt a conſiderable quantity of tea for the port of *Boſton*, and as your petitioners are made to underſtand will be conſigned to their addreſs for ſale.

That ſome of your petitioners have in conſequence of this been cruelly inſulted in their perſons and property—That they have had inſulting and incendiary letters left and thrown into their houſes in the night; that they have been repeatedly attacked by a large body of men; that one of the houſes of your petitioners was aſſaulted in the night by a tumultuous and riotous aſſembly of people, and violent attempts made to force the houſe for the ſpace of two hours, that have greatly damaged the ſame.

That they are threatened in their perſons and property, and further with the deſtruction of the ſaid tea on its arrival into port. And that the reſolves and proceedings of the town at their meetings on the 5th and 18th inſtant are intended to be expreſſive of the general ſenſe of the town, to which we beg leave to refer your excellency, and the honourable board.

Your petitioners therefore beg leave to reſign themſelves and their property commited to their care to your excellency and honours as the guardians and protectors of the people, humbly praying that meaſures may be directed to for the landing and ſecuring the teas until your petitioners can be at liberty openly and ſafely to diſpoſe of the ſame, or until they can receive directions from their conſtituents.

Richard Clarke and Sons,
Benjamin Faneuil, Jun.
Thomas and Eliſha Hutchinſon.

A true Copy, atteſt. THOMAS FLUCKER, Secretary.

At

At a COUNCIL held at the Council Chamber in *Boſton*, upon *Friday* the 19th Day of *November*, 1773.

Preſent. His Excellency *Thomas Hutchinſon*, Eſq; Governour.

Iſaac Royal, John Erving, William Brattle, James Bowdoin, James Ruſſell, James Otis, James Pitts, Samuel Dexter, Eſqrs.

HIS excellency repreſented to the council the tumults and diſorders prevailing in the town of *Boſton*, and required their advice upon meaſures proper for preſerving the peace and for ſupporting the authority of government — whilſt the council were debating on the ſubject a petition from *Richard Clarke, Benjamin Faneuil* and Meſſieurs *Thomas* and *Eliſha Hutchinſon*, to the governour and council was preſented ſeting forth, that the honourable *Eaſt India* company in *London* have ſhipt a conſiderable quantity of tea for the port of *Boſton*, which they are made to underſtand will be conſigned to their addreſs for ſale, and that ſome of them have in conſequence of this been cruelly inſulted in their perſons and property; they therefore beg leave to reſign themſelves and the property commited to their care to the governour and council as the guardians and protectors of the people, and pray that meaſures may be directed to for the landing and ſecuring the teas, until they can be at liberty openly and ſafely to diſpoſe of the ſame, or until they can receive directions from their conſtituents. — After long debate it was propoſed and agreed, that his excellency be deſired to appoint a future day for the council to ſit, and he appointed *Tueſday* the 23d inſtant, and the council adjourned the further conſideration to that time accordingly.

Tueſday, November 23, 1773. Preſent in COUNCIL, his Excelleney *Thomas Hutchinſon*, Eſq; Governour.

Iſaac Royal, John Irving, James Bowdoin, James Ruſſel, James Otis, James Pitts, John Winthrop, Eſqrs.

HIS excellency directed the council to proceed in the conſideration of the petition of *Richard Clarke*, and others, as entered the 19th inſtant, for which purpoſe he had ordered them to ſit at this time, and a debate being had thereon it was moved to his excellency, that the council

council might ſit on a future day, there being only a bare quorum preſent, to which his excellency agreed—and it was adviſed that all thoſe members of the council who live within 40 miles of the town of *Boſton* be ſummoned then to attend, which was done accordingly, to meet on *Saturday* the 27th inſtant.

Saturday, November 27, 1773. Preſent in COUNCIL, his Excellency *Thomas Hutchinſon*, Eſq; Governour.

Samuel Danforth, Iſaac Royal, John Erving, James Bowdoin, James Ruſſel, James Pitts, Samuel Dexter, George Leonard, James Humphrey, Artemas Ward, John Winthrop, Eſqrs.

HIS excellency after repreſenting to the council the diſorders prevailing in the town of *Boſton*, recommended to them to proceed on the petition of *Richard Clarke* and others relative to thoſe diſorders, and required their advice.—After long debate it was moved to his excellency, that a committee of council be appointed to prepare the reſult of ſaid debate to be laid before his excellency, to which he conſented, and *James Bowdoin, Samuel Dexter* and *John Winthrop*, Eſqrs. were appointed accordingly — Mr. *Bowdoin* made report, which was conſidered and debated by the council, and it was moved to his excellency, that he would adjourn the council to a future day for further conſideration, and he appointed *Monday* the 29th for that purpoſe.

Monday, November 29, 1773. Preſent in COUNCIL, his Excellency *Thomas Hutchinſon*, Eſq; Governour.

Samuel Danforth, Iſaac Royal, John Erving, James Bowdoin, James Ruſſel, James Pitts, Samuel Dexter, George Leonard, Artemas Ward, John Winthrop, Eſqrs.

HIS excellency directed that the council proceed upon the buſineſs for which it ſtands adjourned—After debate upon the report of the committee, the queſtion, whether it be accepted, was put, and it paſſed unanimouſly in the affirmative, as the advice of council to his excellency, in the words following, viz.

" Previous to the conſideration of the petition before the board they " would make a few obſervations occaſioned by the ſubject of it. The " ſituation of things between *Great Britain* and the colonies has been

" for ſome years paſt very unhappy. Parliament on the one hand has
" been taxing the colonies, and they, on the other, have been peti-
" tioning and remonſtrating againſt it, apprehending they have conſti-
" tutionally an excluſive right of taxing themſelves, and that without
" ſuch a right their condition would be but little better than ſlavery.

" Poſſeſſed of theſe ſentiments, every new meaſure of parliament
" tending to eſtabliſh and confirm a tax on them renews and increaſes
" their diſtreſs: and it is particularly increaſed by the act lately made,
" impowering the *Eaſt India* company to ſhip their tea to *America*.
" This act in a commercial view they think introductive of monopo-
" lies, and tending to bring on them the extenſive evils thence ariſing:
" but their great objection to it is from its being manifeſtly intended
" (tho' that intention is not expreſſed therein) more effectually to ſecure
" the payment of the duty on tea laid by an act paſſed in the 7th year of
" his preſent majeſty, intitled, 'An act for granting certain duties in the
' *Britiſh* colonies and plantations in *America*'; which act in its opera-
" tion deprives the coloniſts of the right above-mentioned (the exclu-
" ſive right of taxing themſelves) which they hold to be ſo eſſential an
" one, that it cannot be taken away or given up without their being de-
" graded or degrading themſelves below the character of men. It not
" only deprives them of that right, but enacts that the monies ariſing
" from the duties granted by it may be applied 'as his majeſty or his
' ſucceſſors ſhall think proper or neceſſary for defraying the charges of
' the adminiſtration of juſtice, and the ſupport of the civil government
' within all or any of the ſaid colonies or plantations.'

" This clauſe of the act has already operated in ſome of the colo-
" nies and in this colony in particular, with regard to the ſupport of
" civil government, and thereby has operated in diminution of its char-
" ter rights to the great grief of the good people of it, who have been
" and ſtill are greatly alarmed by repeated reports, that it is to have a
" further operation with reſpect to the defraying the charge of the ad-
" miniſtration of juſtice, which would not only be a further diminuti-
" on of thoſe rights, but tend in all conſtitutional queſtions, and in
" many other caſes of importance to bias the judges againſt the ſubject—
" They humbly rely on the juſtice and goodneſs of his majeſty for the
" reſtitution and preſervation of thoſe rights.

" This ſhort ſtate of facts the board thought neceſſary to be given, to
" ſhew the cauſe of the preſent great uneaſineſs, which is not confined

" to

" to this neighbourhood, but is general and extenſive. The people " think their excluſive right of taxing themſelves by their repreſenta- " tives infringed and violated by the act above-mentioned. That the " new act, impowering the *Eaſt India* Company to import their tea " into *America* confirms that violation, and is a new effort not only " more effectually to ſecure the payment of the tea duty, but lay a foun- " dation for the enhancing it, and in a like way, if this ſhould ſucceed, " to lay other taxes on *America*; that it is in its attendants and conſe- " quences ruinous to the liberties and properties of themſelves and their " poſterity; that as their numerous petitions for relief have been re- " jected, the ſaid new act demonſtrates an indiſpoſition in miniſtry that " parliament ſhould grant them relief; that this is the ſource of their diſ- " treſs, a diſtreſs that borders on deſpair, and that they know not where " to apply for relief.

" Theſe being the ſentiments of the people, it is become the indiſ- " penſible duty of this board to mention them, that the occaſion of the " late demands on Mr. *Clarke* and others, the agents for the *Eaſt* " *India* Company, and of the conſequent diſturbances, might appear. " And we mention them not to juſtify thoſe diſturbances, the authors " of which we have adviſed ſhould be proſecuted, but to give a juſt idea " of the riſe of them.

" On this occaſion juſtice impels us to declare that the people of this " town and province, though they have a high ſenſe of liberty derived " from the manners, the example and conſtitution of the mother " country, have till the late parliamentary taxations of the colonies " been as free from diſturbances as any people whatever.

" This repreſentation the board thought neceſſary to be made, prior " to their taking notice of the petition of the agents above-mentioned, " to the conſideration of which they now proceed.

' The petitioners beg leave to reſign themſelves and the property ' commited to their care to his excellency and the board, as guardians ' and protectors of the people, praying that meaſures may be directed ' to for the landing and ſecuring the tea,' &c.

" With regard to the perſonal protection of the petitioners, the board " have not been informed that they have applied for it to any of the " juſtices of the peace, within whoſe department it is to take cogni- " zance of the caſe of the petitioners and all other breaches of the " peace, they being veſted by law with all the authority neceſſary for

" the

" the protection of his majeſtys ſubjects—In the principal inſtance of " abuſe of which they complain, the board have already adviſed that " the authors of it ſhould be proſecuted according to law; and they do " adviſe the ſame in the other inſtances mentioned in their petition.

" With regard to the tea commited to the care of the petitioners, " the board have no authority to take either that or any other merchan- " dize out of their care, and ſhould they do it or give any order or ad- " vice concerning it, and a loſs enſue, they apprehend they ſhould " make themſelves reſponſible for it.——With reſpect to the prayer of " the petition 'that meaſures may be directed to for the landing and " ſecuring the tea,' the board would obſerve on it, that the duty on " the tea becomes payable, and muſt be paid, or ſecured to be paid on " its being landed. And ſhould they direct or adviſe to any meaſure for " landing it, they would of courſe adviſe to a meaſure for procuring the " payment of the duty, and therefore be adviſing to a meaſure inconſiſtent " with the declared ſentiment of both houſes, in the laſt winter ſeſſion of " the general court; which they apprehend to be altogether inexpe- " dient and improper.

" The board, however, on this occaſion aſſure your excellency, that " as they have ſeen with regret ſome late diſturbances, and have adviſed " to the proſecuting the authors of them, ſo they will in all legal me- " thods endeavour, to the utmoſt of their power, to prevent them in " future.

" Whereupon adviſed that his excellency renew his orders to his ma- " jeſtys juſtices of the peace, ſheriffs and other peace officers, to exert " themſelves to the utmoſt for the ſecurity of his majeſtys ſubjects, the " preſervation of peace and good order, and for preventing all offenſes " againſt the laws."

His excellency thereupon demanded of the council, whether they would give him no advice upon the diſorders then prevailing in the town of *Boſton*, and it was anſwered in general, that the advice already given was intended for that purpoſe.

A true Copy, atteſt. THOMAS FLUCKER, Secretary.

At

At a COUNCIL held at the Houſe of the Honourable *William Brattle*, Eſq; in *Cambridge*, on *Tueſday*, the 21ſt Day of *December*, 1773.

Preſent. His Excellency *Thomas Hutchinſon*, Eſq; Governour.

Samuel Danforth, *Iſaac Royal*, *John Erving*, *William Brattle*, *James Bowdoin*, *James Ruſſel*, *James Pitts*, *John Winthrop*, Eſqrs.

HIS excellency acquainted the council, that the reaſon he had ſummoned them to meet at this time was, that he might have their advice relating to the high-handed riot in the evening of the 16th inſtant, between the hours of ſix and nine o'clock, commited by perſons diſguiſed and unknown, on board three veſſels lately arrived from *London*, lying at a wharfe in the ſoutherly part of the town of *Boſton*, known by the name of *Griffins* wharfe—After long debate it was adviſed that the attorney general be directed to make diligent enquiry into the offenſe aforeſaid, in order to diſcover the offenders, and that he lay his diſcoveries before the grand jury for his majeſtys ſuperior court of judicature, &c. for the county of *Suffolk* at their next term, in order for proſecution.

A true Copy, atteſt. THOMAS FLUCKER, Secretary.

Hereupon it is to be obſerved, 1. That by the ſtat. 16 *Car.* I. cap. 10. entitled, "An act for the regulating of the privy council, and for taking away the court commonly called the *Star-chamber*," it is, among other things, "declared and enacted, that neither his majeſty nor his privy "council have, or ought to have, any authority by petition to diſpoſe of "the goods or chattels of any the ſubjects of this kingdom." 2. That this proviſion was made *jus dicere, et non jus dare*, to declare and confirm the common law, and thereby prevent its future violation. 3. That the object of the prayer of *Richard Clarke*, Eſq. and others was unlawful. 4. That the governors directions to the council to proceed thereupon were unlawful, and the more extraordinary in him, who had been a long time chief juſtice of the province.

The powers proper for preventing, ſuppreſſing, and puniſhing outrages being veſted in others the council could only give their advice ſuitable to the occaſion, and the due order of law, which they never failed to do.

FINIS.

At a Council held at the House of the Honourable William Prattle, Esq; in Cambridge, on Friday, the 22d Day of December, 1773.

Present, His Excellency Thomas Hutchinson, Esq; Governour.

Samuel Danforth, Esq; Peter Royal, John Erving, William Brattle, James Boutelle, James Russell, James Pitts, John Winthrop, Esqrs.

HIS excellency acquainted the council, that the reason he had summoned them to meet at this time was, that he might have their advice relating to the high-handed riot in the evening of the 16th instant, between the hours of six and nine o'clock, committed by persons disguised and unknown, on board three vessels lately arrived from London, lying at a wharfe in the southerly part of the town of Boston, known by the name of Griffin's wharfe.—After long debate it was advised that the attorney general be directed to make diligent enquiry into the offence aforesaid, in order to discover the offenders, and that he lay his discoveries before the grand jury for his majesty's superior court of judicature, &c. for the county of Suffolk at their next term, in order for prosecution.

A true Copy, attest. THOMAS FLUCKER, Secretary.

Hereupon it is to be observed, 1. That by the flat. 16 Car. I. cap. 10. entitled, "An act for the regulating of the privy-council, and for taking away the court commonly called the 'Star-chamber,'" it is, among other things, "declared and enacted, that neither his majesty nor his privy "council have, or ought to have, any authority by petition to dispose of "the goods or chattels of any the subjects of this kingdom." 2. That this provision was made "to prevent, for any future time, to declare and confirm the common law, and thereby prevent its future violation. 3. That the object of the prayer of Nathaniel Oliver, Esq. and others was unlawful. 4. That the governors directions to the council to proceed thereupon were unlawful, and the more extraordinary in him, who had been long time chief justice of the province.

The powers proper for preventing, suppressing, and punishing outrages being vested in others the council could only give their advice suitable to the occasion, and the due order of law, which they never failed to do.